DOCUMENT RESUME

ED 107 167 HE 006 458

AUTHOR Stanley, Charles J.; And Others
TITLE The Impact of the Pratt Decision on Black Public Colleges: Florida's Commitment.
PUB DATE 3 Apr 75
NOTE 27p.; Paper presented at the Annual Meeting of the American Educational Research Association (Washington, D.C., March 30-April 3, 1975)

EDRS PRICE MF-$0.76 HC-$1.95 PLUS POSTAGE
DESCRIPTORS Civil Rights Legislation; Colleges; Community Colleges; *Economic Factors; *Educational Opportunities; *Higher Education; *Integration Plans; *Racial Integration; State Programs

ABSTRACT

This recital of the status of the several components of the Florida Plan for Equalizing Educational Opportunity in Public Higher Education is descriptive of some of its developments to about March 1975. The plan projected its greatest impact on desegregation as occuring within the first two years of its five-year course, but with the continuing deterioration of Florida's and the national economy, the effectuation of the parts of the plan dependent on greatly increased revenues is not likely. The prospects for a turnabout in state appropriations in the next year or two for the implementation of desegregation are not good. The import of these developments on the enhancement of educational opportunity for black post-high school students, whether at the community college level, or the level of the senior colleges and universities with their graduate and professional schools is, at this point, problematic, because of the exigencies of a faltering economy. (Author/KE)

ED107167

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Annual Meeting of The
American Educational Research Association
March 30-April 3, 1975
Washington, D.C.

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Charles J. Stanley

Joshua W. Williams

Malcolm Q. Barnes

Florida Agricultural and Mechanical University
Tallahassee, Florida

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THE IMPACT OF THE PRATT DECISION ON BLACK PUBLIC COLLEGES: FLORIDA'S COMMITMENT

The Congress of the United States legislated through the Civil Rights Act of 1964, under Title VI, Non-discrimination in Federally Assisted Programs, Section .601:

> No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Department of Health, Education, and Welfare was the Federal agency mandated to oversee the enforcement of the Congressional intent with respect to the Act. For more than five years following the enactment of Title VI, progress towards compliance with and implementation of its provisions was hardly discernible. As stated by John Egerton, a perceptive student of civil rights legislation and education:

> The disparity between the percentage of blacks in the population and the percentage enrolled in public colleges and universities is substantial in almost every state. The gap begins early (proportionately fewer blacks than whites graduate from high school) and grows progressively wider: more than 15 percent of the 90 million people in the 19 states are black, yet college enrollment in those states is no more than 10 percent black, and blacks make up approximately 4 percent of the undergraduate recipients, 2 percent of the graduate and

> professional school enrollment, and less than one percent of the doctoral degree recipients. Furthermore, a closer look at enrollment in any given state is apt to show that the largest proportion of black students are in the traditionally black institutions and urban junior colleges, while the senior state universities which have the most prestige and the widest array of programs tend to enroll the smallest percentage of black students.[1]

In addition to the black/white disparities, proportionately, of the college age population, the college attending population, and college degree recipients, discrimination persisted with respect to black/white faculty employment, faculty pay, student financial aid, graduate and professional degree programs, and representation on the governing boards of public higher education. In summary, as Egerton concludes, "Colleges and universities were still viewed by whites and blacks as 'ours' and 'theirs.'"[2]

In 1970, the NAACP Legal Defense Fund and a group of plaintiffs consisting of students, their parents, and other interested citizens and taxpayers, convinced that neither was the Civil Rights Act self-enforcing nor that it was being enforced by the Department of Health, Education, and Welfare, brought suit against HEW for permitting segregation and discrimination to continue and for failing to cut off federal

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[1]John Egerton, "Ending Discrimination in Higher Education, Southern Education Foundation, Atlanta, Georgia, (1974), p. 11.

[2]Ibid., p. 8.

assistance to institutions persisting in non-compliance. In 1969, HEW had informed public officials of ten states on the basis of field investigations that widespread segregation and discrimination continued in their public colleges and universities, and instructed them to submit plans providing for the dismantling of their dual systems of higher education within 120 days. This HEW directive was either ignored completely, or only partially, and inadequately complied with. Despite this inaction, on the part of the states, HEW had not taken the remedy, provided by law, of denying further Federal assistance to the non-complying states and institutions. Judge John H. Pratt, of the U.S. District Court for the District of Columbia, decided in favor of the plaintiffs and ruled that HEW resume negotiations with the states toward the end of securing acceptable plans for the desegregation of their systems of higher education. The HEW officials demurred on the grounds that the civil rights legislation permitted them discretion in determining the action, or lack of it, that should be taken in instances of non-compliance. Thereupon, HEW appealed the decision of Judge Pratt to the Court of Appeals for the District of Columbia. Participating in the appeal procedures with HEW against Judge Pratt's order that enforcement of Title VI must follow "in absence of voluntary compliance within a reasonable time," was the National Association for Equal Opportunity in Higher Education, a voluntary association of the presidents of 110

predominately black colleges and universities, both state-supported and private.

In their amicus brief, the presidents of the black colleges and universities, urged that the Court not so word its desegregation decree as to require, or to permit, the dissolution, merger, or downgrading of their publicly supported colleges. For the Court to acquiesce in such state action, they argued, would be tantamount to making the victims of segregation and discrimination bear a full and iniquitous burden of the cost for correcting this social evil. Taking into account the gravamen of the presidents of the black colleges and universities, the Court of Appeals ruled that no factors justified HEW's failure to comply with the Congressional mandate and sustained Judge Pratt's original decision and order. Explicating its position further, the Appeals Court made this significant statement:

> The problem of integrating higher education must be dealt with on a statewide, rather than a school-by-school basis. Perhaps the most serious problem in this area is the lack of statewide planning to provide more and better trained minority group doctors, lawyers, engineers, and other professionals. A predicate for minority access to quality post-graduate programs is a viable, coordinated statewide higher education policy that takes into account the special problems of minority students and of black colleges. As amicus points out, these black institutions currently fulfill a crucial need and will continue to play an important role in black higher education.[3]

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[3]Adams v. Richardson, 480 F.2d 1159 (1973).

The Court took special pains to make clear that the issue at hand was not discriminatory admissions policies of individual institutions. This point was not in dispute, and to the extent that such practices were discovered corrective action must follow forthwith. The crux of the issue before the Appeals Court was "the complex problem of system-wide racial imbalance." As a consequence of the Court decision, HEW was required to call upon the states in question--Louisiana, Mississippi, Oklahoma, North Carolina, Florida, Arkansas, Pennsylvania, Georgia, Maryland, and Virginia--irrespective of whether or not they had previously submitted plans, for new plans for desegregation within 120 days and to "be in active communication with those states whose plans were not acceptable." The criteria by which the acceptability of the state plans were to be evaluated included general requirements as to the extent of their coverage of the entire program of higher education for the state, indications of the goals and the schedules by which they were to be met, delineation of the role and scope of each institution of higher education in the state's system, provisions for the enhancement of black colleges, increase of the numbers of blacks and other minorities in all levels of higher education, and without an undue burden for compliance being placed upon black institutions, provisions that discriminatory funding practices be rectified, institution of student attrition and retention studies to correct any revealed imbalances, both

in the community colleges and the senior universities; and procedures for the periodic monitoring of the progress toward the attainment of these objectives.

Pursuant to Judge Pratt's order as modified by the Court of Appeals, the Director of the Office of Civil Rights of HEW, Peter Holmes, informed Florida officials of the existing status of Florida's desegregation of public higher education. Holmes stated, as a premise, that Florida had formerly operated by law, a racially segregated system of higher education with respect to both students and faculty. The problem now was to identify remaining vestiges of segregation or discrimination and to remove them. A number of glaring vestiges were cited. Of a total of 6,064 faculty in public higher education in Florida in 1973, 399 were black. Of this 399, 271 were employed at Florida A&M University. FAMU's faculty, itself, was then 77 percent black. In 1970-71, 2.3 percent of black students were in formerly all-white schools and in 1972-73, the percentage was 3.4. Particularly troublesome to Holmes was the existence of Florida State University and FAMU in the city of Tallahassee with several duplicating and competing curricula.

Duplication of courses and curricula, Holmes regarded as a problem because it impeded the system-wide desegregation obligation placed upon Florida in Judge Pratt's order, by providing white students an alternative to attending FAMU for their educational needs. A further handicap to FAMU in

overcoming its previous status as an institution for blacks only was official designation of its role as one of providing "leadership in minority communities," "improving the condition of the educationally deprived and economically handicapped." Such role definitions for FAMU, Holmes said, would deter white students from enrolling and thus tend to perpetuate, in fact, a segregated system. Speaking more generally, Holmes informed Florida officials that the state's plan must be revised to meet the following criteria: (1) Show for each item of the plan its contribution to desegregation and the timetable for its completion; (2) project by yearly intervals, the degree of student and faculty desegregation during the plan's operation; and (3) provide for full participation of all concerned segments of Florida's white and black communities.

Florida responded to Holmes' criticisms of its submission by formulating a more extensive prospectus in two volumes entitled "Plans for Equalizing Educational Opportunity in Public Higher Education in Florida." It was the hope of the state officials that this time the plan would meet with the approval of the Federal officials. Holmes responded to this Florida plan of February 8, 1974, with a long letter of great detail, dated April 19, 1974. addressed to the Florida Commissioner of Education.

In detailing the faults of the Florida Plan, Holmes took care to assure Florida officials that if the state

revised its plan to remedy its faults, it would be accepted. The pervasive defects were that it failed to provide for a coordinated statewide approach to the desegregation of Florida's system of public higher education and that it lacked specificity as to: (1) date of initiation of action; (2) officials responsible for implementing action; and (3) indication of definite reviewable intermediate steps or milestones.

A grave weakness of the plan from the viewpoint of the Office of Civil Rights was the division of responsibility, for Florida higher education among the Florida State Board of Education, consisting of the Governor and the state cabinet, the Board of Regents, overseers of the state's senior colleges and universities and the Division of Community Colleges, responsible for the state's two-year colleges. This partition of authority in governance made difficult the pinpointing of responsibility, or the lack of it, for progress toward a unitary system. With respect to specificity, as to the schedule of implementation, the OCR outlined the following criteria: (1) substantial implementation in the first year of the plan; (2) maximum results in the plan's first two years; and (3) full desegregation by 1980. Any action within the system of higher education pertaining to the addition, deletion, substantial expansion or contraction of programs, the opening, closing, or expansion of new facilities or institutions, or the conversion of private

institutions to public, or the modification of admission standards, must be evaluated in terms of their facilitating the process of desegregation.

The status of Florida A&M University received considerable attention. First and foremost, the status of the institution must be enhanced. The option of closing FAMU, merging it, or downgrading it, was foreclosed. The official designation of FAMU's role in the State University System must be revised. References to its previous role as being for minorities, the "underprepared," "late bloomers," the "culturally deprived," "disadvantaged" or "black" must be deleted. Positively, the role of A&M must be formulated so as to differentiate and prevent it from overlapping the roles of Florida State University and the Tallahassee Community College. New programs, services, and resources must be provided at FAMU enabling it to attract students representative of Florida's diverse population.

Confronted once more with the rejection of Florida's plan, state officials noted carefully the objections cited by the Office of Civil Rights and produced a revised version of their earlier document, Plans for Equalizing Educational Opportunity in Public Higher Education in Florida, entitled, Supplement to Volume I--Special Affirmations and Actions. This revised version of the Florida plan, submitted on June 1, 1974, won the acceptance of OCR. Couched in the form of commitments, the plan may be considered in terms of

the broad categories of (1) those commitments generally applicable system-wide, with special reference to the senior colleges and universities, (2) those referring specifically to Florida A&M University and (3) those pertaining generally to Florida's system of community colleges. These commitments are of significant import for Florida's near-term and long-term progress toward developing a unitary system of higher education as they are subject to later review by HEW and the Federal courts.

The commitments applying system-wide and especially to the senior colleges and universities included: (1) the development of a mechanism and instrument for review at the state level of decisions by the institutions regarding the impact of desegregation on (a) academic programs--additions, deletions, or substantial expansion or contraction; (b) facilities--construction of new facilities, or closing or substantial expansion of existing facilities; (c) Institutions --establishing new institutions (including conversion of a private institution to public control) or closing of existing ones; and (d) modification of admission standards. (2) An operative definition of "basic curricula" and "unnecessary duplication." (3) Reports on dates on which system-wide analysis of academic programs in the State University System began, dates analyses will be completed, and the dates implementation of programs is expected to begin. (4) A program of coordinated recruitment of students between all

institutions in the System.

The program should be coordinated at the state level and should address the potential barrier which high school or community college counselors and/or administrators may pose in channeling black students to FAMU, into vocational-technical programs, or away from higher education entirely. (5) A plan should be developed whereby all financial aid resources, including Federal assistance, will be awarded to students in a coordinated and complementary manner, and so that black students do not bear a greater burden than white students, in relation to need, in incurring loan or employment obligations. (6) A plan should be developed for a system-wide study of attrition rates by race in state universities. The plan should state specifically what counseling, academic assistance, and other actions will be undertaken by the various institutions for the retention of students. (7) Specific procedures should be developed for identifying and eliminating possible discrimination in areas such as social organizations, assignment of student teachers, and off-campus housing and employment discrimination affecting students. (8) A system-wide plan should be developed for the recruitment of faculty to provide significant results in the 1974-75 academic year. This calls for the creation of a statewide applicant pool which must be utilized by institutions if they have not located, through other means, a suitable minority candidate for any vacant position. State

level coordination and responsibility for the successful implementation of the program would be required. (9) A process must be established to measure the progress of desegregation of students, faculty, and administrative staff. Community colleges and the university system should use comparable criteria. (10) The plan must indicate what additional programs the State will employ to eliminate the dearth of minority Ph.D's. (11) The plan must outline a program for obtaining greater representation of blacks on governing boards.

The commitments applicable specifically to Florida A&M University though not so numerous as those generally applicable system-wide, are key elements of the plan. The FAMU commitments are: (1) A comparative analysis of the resources provided to Florida A&M University and to each of the other four-year institutions. The resources in question include: (a) number and quality of facilities; (b) level or per capita expenditures; (c) amount and availability of student financial aid; (d) quality of programs, services, and staff; (e) number and quality of degree offerings available. (2) A study of the facilities for the physically handicapped at Florida A&M University and development of a program for financing such facilities as are needed. (3) Defining of role and scope for each of the nine state universities, and clarification of the new role for Florida A&M University. Each institution should be characterized as local, regional, or

statewide. Particular care should be given to distinguishing FAMU's role from that of Florida State University. (4) Development of new academic programs at Florida A&M University which will assist FAMU in competing for students with other institutions in the System. (5) A description of the role of the proposed Center for Continuing Education in Tallahassee, and the relationship of FAMU's new role in the operation of the Center. (6) The schedule for bolstering the academic programs at Florida A&M should provide for substantial addition of resources in the Fall 1974 Quarter to assist FAMU in further development of its new role.

Florida's commitments for desegregation, specifically applicable to the state's Community College System, are recorded in a September, 1974 document entitled, Report of the Florida Public Community College Equal Access/Equal Opportunity Consulting Team. This report contained numerous recommendations of which some of the more salient are: that the Division of Community Colleges: (1) strengthen its leadership role and provide greater expertise to assist the public community colleges to achieve full compliance with Title VI of the Civil Rights Act of 1964. (2) Develop an attrition and retention study design which can be utilized by the Division and each of the Colleges to determine what actions may be required to insure that those who enroll can achieve reasonable academic success. (3) Establish more valid and equitable financial aid criteria. (4) Improve the

management information system as it relates to equal access and equal opportunity. (5) Appoint a system-wide equal access/equal opportunity monitoring committee at an early date. (6) Eliminate non-credit remedial and pre-program courses and provide special academic support services for those needing them. (7) Eliminate the Florida Twelfth Grade Test now used as a screening device for admission to any course or program in Florida's community colleges. (8) Appoint black persons to top-level line management positions at the level of deanships or above. Assistant to or assistant level positions will not meet the requirements of this recommendation. (9) Develop career awareness programs, materials and strategies with special emphasis on such professions as allied health, nursing, accounting, law, and medicine. Special efforts should be made to insure that career awareness information is disseminated to blacks and other minorities.

The process by which the generalized statements of commitment of the Florida plan was to be made operational was detailed in the format of schema described as action forms. There was a total of nineteen such forms which followed the pattern of stating the subject of the form, and indicating the nature of the action to be taken, steps for achieving the action, time schedule for achieving the action, justification for the time schedule, agencies responsible for achieving the action, source of revenue and

process of acquisition, cost of the action, reporting schedule at periodic intervals of progress of the action and human resources required for implementation of the action.

As some of these action forms contained voluminous detail only a suggestion can be given here of their full scope. For the purpose of illustration and because of its intrinsic pertinence, some of the highlights of the Action Form Two will be given. The subject of this form is: Establishment of a viable role for FAMU within the State University System. The action is described as: To establish FAMU as a viable and integrated institution within the state university system by establishing academic programs which will enhance its attractiveness to students of both races and take other steps to further this purpose. The steps for achieving this action involve: (1) the initiation of three new bachelor's degrees in Journalism, 1974-75, international development, 1975-76, and architectural design, 1974-75; the establishment of master's degrees in Applied Social Sciences, 1974-75, Business Administration, 1976-77, Pharmaceutical Sciences, 1976-77, and Architectural Design, 1977-78. (2) The initiation of joint programs between Florida State University and FAMU. Students at each school in such programs as nursing, library science, home economics, food and nutrition, speech pathology and audiology, teacher education, social work and criminal justice are to be required to take a specified number of courses at the university they are not enrolled in. (3) The State University System is committed to projecting

the impact on the viability of FAMU of approval for any new special academic program for implementation at any state university in Florida, and committed as well to denying approval to schools other than FAMU if it can be demonstrated that implementation of the proposed special program would be detrimental to the viability of FAMU. (4) A phased raising of admission standards for first time in college students at FAMU so as to equalize admission standards for undergraduates throughout the State University System by 1980. Simultaneously with the raising of admission standards at FAMU, the Board of Regents has authorized the other institutions in the system to increase the number of exceptions from five to ten percent to make undergraduate education more accessible to minorities. The timetable for the phased raising of admission standards requires that FAMU admit 90 percent of its first time in college students beginning with the September 1975 class on the basis of a "C" average in high school and a score of at least 150 on the Florida Twelfth Grade Test. The score is to be raised to at least 200 in September 1976, and by twenty-five points each succeeding September until 1980, when a score of at least 300 on the test is required. The justification for the phased raising of FAMU admission was that an abrupt change would be counterproductive "resulting in unrecoverable enrollment losses, especially of black students." Graduated implementation of admission standards would also provide time for the other universities to adapt their admissions and

recruitment programs and to develop programs of compensatory education for students admitted as exceptions to minimum admission standards.

A pervasive fear of Florida blacks is that desegregation of FAMU may have a depressive impact on black university enrollments similar to the effect that the closing of black community colleges had on the enrollments of blacks in the desegregated two year colleges. Action form Eighteen is designed to address this concern. The Subject of Action form Eighteen is: establishment of numerical goals for achieving racial mix of students within the state university system. The described action is: to establish numerical goals for achieving minority student enrollments at the universities within the state university to about the same percent as white students from the total white population matriculating through the secondary schools and community colleges into the state university system. The steps for achieving this action include: (1) a determination of the promotion and retention ratios by grade level for each minority group in Florida's public secondary school system. (2) Establishment of an informational exchange program with the Community College Division to determine the number of minority students admitted annually, their intended course of study, and the number of minority students graduating with the Associate of Arts and Associate of Science degrees. (3) Development of an enrollment projection model.

(4) Participation in the building of a deterministic model, sponsored by the National Center for Educational Statistics, designed to identify those variables most significant to secondary school students in the selection of a college. (5) Institutional projections through 1980 of student body racial mix. (6) Analysis of all data for the derivation of numerical goals.

The schedule for achieving this action states a beginning date of December 1974, and stipulates a projection of high school and community college graduates by race categories updated annually through 1980. The justification for a five year timetable was that a realistic and accurate data base pertaining to retention and promotion ratios of Florida high schools and community colleges had to be achieved if the State University System was to serve an equal proportion of minority students in the population as compared to white students.

As the decision of Judge Pratt and its sustention by the District Court of Appeals, the provisions of the Florida Plan for Equalizing Educational Opportunity in Public Higher Education, and the responses to the Florida Plan by the Office of Civil Rights show, the guiding principle in implementing Title VI of the Civil Rights Act of 1964 is that of effecting a representation of minorities in public benefits and responsibilities to a level proportionate to their numbers in the general population. Underrepresentation of

minorities in schools and colleges, graduate schools and the professions generally from the point of view of Title VI is a danger signal requiring rigorous scrutiny to determine whether public agencies by discriminatory acts of commission or omission are contributing to the restriction of minority participation. Thus, the success of the Florida Plan is to be measured by the extent to which the presence of blacks and other minorities in Florida at all levels of publicly sponsored education approximates the ratio of their numbers in Florida's population.

The target date for the accomplishment of the goal of the Florida Plan is 1980. As the progress of the Plan is to be reported semi-annually, the Semi-Annual Report on the Plan, as submitted to the Office of Civil Rights on February 26, 1975, by the Florida State Department of Education, may be a harbinger of the possible outcomes of the plan. The report reviewed the developments respecting the fifteen special commitments and the nineteen action forms to which Florida is committed. Several difficulties were noted: (1) the implementation of Action Form One providing for a computer model to determine the desegregation impact on student enrollment by race and other categories is delayed because of budget restraints. No special funding was provided. (2) The proposal in Action Form Two of requiring students at Florida State University and Florida A&M University to take some of their courses at the other school has drawn

strong negative reactions from FAMU and FSU students as to the feasibility of joint programs. (3) The coordinated recruitment provision of Action Form Seven was delayed because of budget restraints and a temporary Board of Regents moratorium on admissions. (4) The provision to provide grants and tuition supplements to black graduate students, faculty and staff of Action Form Eight has been hampered by the failure of the Internal Revenue Service to classify the grants as tax exempt.

(5) The system-wide study of student attrition rates by race has been delayed by cutbacks in the in-house funds budgeted to the general office of the State University System. Special funding is now recognized as necessary for the implementation of Action Form Eight. (6) Action Form Eleven provides for "the development and expansion of special counseling and compensatory programs, health and academic services and orientation activities to aid in the retention of black students admitted in special programs under the ten percent waiver of the admission policy." This program of supportive services to black students in predominately white universities is delayed because of "revenue reductions and budget cuts." (7) The implementation of Action Form Fourteen to encourage the voluntary exchange of black faculty at FAMU to predominately white institutions and of white faculty to FAMU was delayed because of reduction in state revenue and consequent University budget cuts. The hope is expressed

that this action form can be implemented in the fall of 1975. (8) Action Form Eighteen provides for the establishment of numerical goals "for achieving minority student enrollments within the State University System to about the same percent as white students from the total white population matriculating through the secondary schools and community colleges into the State University System." Florida reports a major setback in the implementation of this action form. The expected funding from the Rand Corporation did not materialize; however, other funds are being sought.

The above listing of delays in the implementation of several of the action forms or parts of them, should not obscure recognition of the progress made thus far on other action forms. The visiting scholars program at FAMU of Action Form Four is underway and progressing as scheduled; the renovation of physical facilities at FAMU, such as residence halls, buildings for classes and administration, and provisions for the physically handicapped, as provided for by Action Form Six, are being implemented; the creation of a central applicant pool for the recruitment of faculty and administrators of Action Form Thirteen is reported as being "highly successful." The provision of Action Form Fifteen for the retraining of faculty for continued productivity is being implemented. Finally, Action Form Nineteen seems to have fully achieved its goal. This Form calls for the development of procedures for identifying and eliminating

possible discrimination in areas such as social organizations, assignment of student teachers, and off-campus housing and employment discrimination affecting students. The Office of Personnel and Faculty Relations of the Board of Regents reports that it had received no complaints.

This recital of the status of the several components of the Florida Plan for Equalizing Educational Opportunity in Public Higher Education is descriptive of some of its developments to about March, 1975. The Plan still has almost four and a half years ahead for its completion. Even so, the numerous delays in its implementation attributed to revenue shortfalls are ominous for the accomplishment of its stated goals. The plan projected its greatest impact on desegregation as occurring within the first two years of its five-year course, but with the continuing deterioration of Florida's and the national economy, the effectuation of the parts of the plan dependent on greatly increased revenues is not likely. Florida's Governor has already directed agency heads to reduce expenditures below authorized levels for the current fiscal year. The prospects for a turnaround in state appropriations in the next year or two for the implementation of desegregation are not sanguine. The import of these developments upon the enhancement of educational opportunity for black post-high school students, whether at the community college level, or the level of the senior colleges and universities with their graduate and professional schools is, at this

point, problematic; particularly, since many of the key provisions for supportive services to black students and for monitoring and measuring their rates of attrition, retention, program completion or graduation, both in the community colleges and in the predominately white universities, are stalled in their implementation because of the exigencies of a faltering economy.

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